

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID NELSON,

Plaintiff,

v.

ORDER

JANSSEN PHARMACEUTICALS and
JOHNSON & JOHNSON,

14-cv-707-jdp

Defendants.

Pro se plaintiff David Nelson is proceeding on a strict liability claim against defendants Janssen Pharmaceuticals and Johnson & Johnson on a theory that there is a design defect in Risperdal/risperidone, a drug defendants manufacture. Nelson says that the drug caused him to grow breasts that are painful.

The case has been stayed for many months while the court attempted to find counsel for Nelson. Dkt. 27. During this time, the court has contacted members of the Western District of Wisconsin Bar Association and the Seventh Circuit Bar Association as well as lawyers who have previously conducted Risperdal litigation.

Unfortunately, no lawyer has agreed to take the case and the court has exhausted its options. Thus, Nelson now has a choice: (1) proceed on his own without counsel; or (2) dismiss this case without prejudice.

If Nelson chooses the first option, I will direct the clerk of court to set a telephone conference with Magistrate Judge Stephen Crocker to determine a new schedule for the case. After that, it will be up to Nelson to determine how to litigate his claim. The court cannot provide legal advice.

If Nelson chooses to dismiss the case, the dismissal will be without prejudice, which means that Nelson could file a new case at a later date. However, the statute of limitations would continue to run. *Dupuy v. McEwen*, 495 F.3d 807, 810 (7th Cir. 2007) (“[W]hen a suit is dismissed without prejudice, the statute of limitations continues to run from the date (normally the date of the injury) on which the claim accrued.”).

ORDER

IT IS ORDERED that:

1. The stay in this case is LIFTED.
2. Plaintiff David Nelson may have until May 11, 2018, to inform the court in writing whether he wishes to: (1) continue litigating the case but without counsel or (2) dismiss the case without prejudice.
3. If Nelson chooses the first option, the clerk of court will set a telephone scheduling conference with Magistrate Judge Crocker. If Nelson fails to respond by May 11, I will construe his silence to mean that he is choosing the second option and I will direct the clerk of court to close the case.

Entered April 23, 2018.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge